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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/401,495 09/22/99 MARSCHOLL

K 08204.035

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PM82/0830

LINIAK BERENATO LONGACRE & WHITE
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

└ EXAMINER

STRIMBU, G
ART UNIT PAPER NUMBER

3634
DATE MAILED:

17

08/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/401,495

Applicant(s)
K. Marscholl

Examiner
Gregory J. Strimbu

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3634



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/23/01 and 8/15/01
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Sep 22, 1999 is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on Dec 8, 2000 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on December 8, 2000 have been approved.

The drawings, however, are objected to because the applicant has used the same reference character to refer to different embodiments of the same element of the invention. For example, the applicant uses reference character "14" to refer to the crossbar in figures 1 and 3. However, since the crossbar in figure 3 is different from the crossbar in figure 1, it requires a different reference character from figure 1 such as --14''--. Correction is required.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the double prime reference signs in figure 3 which are not mentioned in the description. For example, see 11'' in figure 3. Correction is required.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means"

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and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because legal phraseology such as "means" on line 1 should be avoided. On line 3, "each affixed to one of the cable segments" is confusing because it is unclear if the applicant is setting forth both of the actuators is affixed to one of the cable segment or each of the actuators affixed to a respective one of the cable segments. On line 4, "and actuators" is confusing since it is unclear if the applicant is referring to the actuators set forth above or is attempting to set forth actuators in addition to the ones set forth above. On line 4, "inside a guide" is confusing since it appears that the guide merely slide along an outside surface of each of the guides. Additionally, it is unclear how both of the actuators are guided in one guide. On line 4, "the mounting structures" is confusing since the applicant has set forth only one mounting structure above. On line 6, "in a lift operating condition" is confusing since it implies that the actuators are not non-movably fixed to the rigid coupling when the window lift is not in a lift operating condition. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. It is suggested that the applicant delete "in the lift-operating condition".

The disclosure is objected to because of the following informalities: the description of figure 2 does not indicate that it shows a different embodiment of the invention; the description of

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figure 3 is objected to because it is grammatically awkward and confusing, does not indicate that a different embodiment of the invention is shown therein, and it includes reference characters that do not agree with those shown in figure 3; on line 7 of page 8, "of the drive motor" is grammatically awkward and confusing; on line 22 of page 8, it appears that "support sheetmetals" should be changed to --sheetmetal supports--; on line 1 of the amendment to page 8, line 20 to page 9, line 5, submitted July 23, 2001, "as regards the embodiment" is grammatically awkward and confusing; on line 2 of the amendment to page 8, line 20 to page 9, line 5, submitted July 23, 2001, "a sheetmetal supports" is grammatically awkward and confusing; on line 3 of the amendment to page 8, line 20 to page 9, line 5, submitted July 23, 2001, "support sheetmetals" is grammatically awkward and confusing.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "means" on line 2 of claim 1 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by

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35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). What does the drive means do? Recitations such as “when said window pane . . . to said upper position” on lines 3-4 of claim 1 render the claims indefinite because it implies that the cable segments are not parallel to each other at times other than when the window pane is lifted from the lower position to the upper position. Recitations such as “two actuators being displaceably guided in a first guide” on line 6 of claim 1 render the claims indefinite because it is unclear how both of the guides can be in the first guide at the same time. Additionally, it is unclear how the actuators can be “in” the guides when it appears that the actuators do nothing more than slide on an outside surface of the guides. Recitations such as “at least one actuator” on line 6 of claim 5 render the claims indefinite because it is unclear if the applicant is referring to one of the actuators set forth above or is attempting to set forth another actuator in addition to the ones set forth above. Recitations such as “on the mounting structure” on line 2 of claim 6 render the claims indefinite because they are grammatically awkward and confusing. Recitations such as “or” on line 2 of claim 8 render the claims indefinite because it is unclear which one of the non-equivalent alternatives the applicant is positively setting forth.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Publication No. 642,256. Japanese Patent Publication No. 642,256, in figures 11 and 12, discloses a motor vehicle window lift comprising a mounting structure (not numbered, but seen in figure 11), a drive means (M), a cable system 12 having two cable segments running substantially parallel to each other, several reversing rollers 18, 19 and 20 for the cable system and two actuators 32 and 36 for the window pane 5, each affixed to a respective one of the cable segments, at least one of the two actuators 32 and 36 being displaceably guided in a first guide 3 and 4, respectively, on the mounting structure, wherein the two actuators are rigidly connected to each other by a rigid coupling 6 such that the actuators are non-movably and non-pivotally fixed to the rigid coupling. The rigid coupling 6 is a cross bar which is detachably attached to the actuators and forms the rigid coupling.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Publication No. 642,256 as applied to claims 1-3 and 11 above, and further in view of Kimura et al. Kimura et al. discloses a mounting structure B3 having a width is less than approximately 2/3 the width of the window pane B1.

It would have been obvious to one of ordinary skill in the art to provide Japanese Patent Publication No. 642,256 with a width, as taught by Kimura et al., to reduce the amount of space required in the vehicle door to mount the window lift.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Publication No. 642,256 as applied to claims 1-3 and 11 above, and further in view of Marscholl et al. Marscholl et al. discloses an adjusting element 11 for connecting the ends of a cable system 3 to a coupling 1.

It would have been obvious to one of ordinary skill in the art to provide Japanese Patent Publication No. 642,256 with adjusting elements, as taught by Marscholl et al., to adjust the cable tension.

Allowable Subject Matter

Claims 5-8, 10 and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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The following is an examiner's statement of reasons for indicating allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach a motor vehicle window lift comprising two actuators connected to each other by a rigid coupling such that the actuators are non-movably and non-pivotally fixed to the rigid coupling, wherein one of the actuators engages one of the first and second guides such that the one of the actuators is displaceably guided by the one of the first and second guides, and wherein the other of the actuators is affixed to one of the cable segments remote from the first and second guides such that the second actuator is not engaged with the guides. See claim 5, lines 7-11 for similar, but less precise language.

Response to Arguments

Applicant's arguments filed July 23, 2001 have been fully considered but they are moot in view of the new grounds of rejection.

Conclusion

THIS ACTION IS NOT MADE FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is (703) 305-3979. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 4:30 P.M. The

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fax phone number for this Group is (703) 305-3597. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
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